

# PLANNING COMMISSION MINUTES

August 22, 2001

## CALL TO ORDER:

Chairman Vlad Voytilla called the meeting to order at 7:00 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive.

## ROLL CALL:

Present were Chairman Vlad Voytilla, Planning Commissioners Bob Barnard, Gary Bliss, Russell Davis, Eric Johansen, Brian Lynott and Dan Maks.

Community Development Director Joe Grillo, Economic Development Manager Janet Young, Principal Planner Hal Bergsma, Building Official Brad Roast, Senior Planner Don Gustafson, City Attorney Mark Pilliod, Assistant City Attorney Ted Naemura and Recording Secretary Sandra Pearson represented staff.

The meeting was called to order by Chairman Voytilla, who presented the format for the meeting.

## VISITORS:

Chairman Voytilla asked if there were any visitors in the audience wishing to address the Commission on any non-agenda issue or item. There were none.

## APPROVAL OF MINUTES:

Minutes of the meeting of August 1, 2001, submitted. Commissioner Barnard referred to lines 40 and 41 of page 9, requesting that his statement be expanded, as follows: "Commissioner Barnard **expressed concern with funding and** questioned whether 99% of this plan could be considered a pipe dream." Commissioner Barnard **MOVED** and Commissioner Johansen **SECONDED** a motion that the minutes be approved, as amended.

Motion **CARRIED**, unanimously, with the exception of Commissioner Davis, who abstained from voting on this issue.

1 **STAFF COMMUNICATION:**

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3 Observing that he would like to wait to start the meeting until after City Attorney  
4 Mark Pilliod's arrival, Community Development Director Joe Grillo announced  
5 the appointment of the new Development Services Manager, Steven Sparks.

6  
7 7:07 p.m. – Mr. Pilliod arrived.

8  
9 Mr. Grillo described the recent renovations to the second floor of City Hall.

10  
11 **NEW BUSINESS:**

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13 **WORK SESSION:**

14  
15 **THE ROUND AT BEAVERTON CENTRAL**

16 This work session will involve a discussion of the Disposition and Development  
17 Agreement between the City of Beaverton and the new developer of The Round at  
18 Beaverton Central.

19  
20 Mr. Pilliod provided a brief history of what has occurred with this project,  
21 observing that the City of Beaverton has had discussions with *Dorn Platz*  
22 *Properties*, which is based out of Glendale, California, for approximately a year,  
23 which led to the signing of a Disposition and Development Agreement (DDA).  
24 Observing that this property had been involved in a bankruptcy process, he stated  
25 that the court had ultimately approved a plan that provided for the City of  
26 Beaverton and *Enron Microclimates* to purchase the property as tenants in  
27 common for approximately \$2.3 Million. He mentioned that although it is still  
28 necessary to complete the land use process, the joint tenants in common now have  
29 the title to the property, emphasizing that the DDA is basically an elaborate Land  
30 Sale Contract. In exchange for certain performance on the part of the developer,  
31 the City of Beaverton and *Enron Microclimates* will convey title.

32  
33 Mr. Pilliod pointed out that while some of this performance has already taken  
34 place, more would continue to occur even before the transaction has been  
35 completed and the title transferred. He noted that the vast bulk of the activity  
36 envisioned for this project would not occur until after the title is transferred. He  
37 pointed out that one of the objectives is to attempt to initiate development on this  
38 property right away. Two of the buildings are already out of the ground. He  
39 discussed the curved building located north of the light rail, which he referred to  
40 as Crescent Promenade, commenting that this particular building has progressed  
41 further than the other building, which he referred to as South Office. He stated  
42 that with some minimal decision-making, basically at a staff level, which involves  
43 Type 1 and Type 2 decisions, minor modifications could be made and  
44 construction re-started on those buildings. More extensive modifications would  
45 be approved, subject to the Public Hearing process, involving either the Planning  
46 Commission, the Board of Design Review or both.

1 Although actual construction would not occur until the transaction closes, Mr.  
2 Pilliod stated that the DDA allows the developers to engage in pre-construction  
3 activities, such as the submittal of applications and examination of the site. In  
4 order to obtain title, a number of conditions must be met, adding that it is  
5 anticipated this would take place sixty days following signature of the DDA.  
6 Because the DDA was signed on July 30, 2001, the title should be transferred on  
7 September 28, 2001, although a short extension would not cause any serious  
8 concern. Thereafter construction could resume on both Crescent Promenade and  
9 South Office.

10  
11 Mr. Pilliod discussed the materials that had been submitted to the Planning  
12 Commission, including a Schedule of Performance, which addresses the  
13 resumption of the construction of both Crescent Promenade and South Office, as  
14 well as additional development of the project. In the DDA, the City of Beaverton  
15 and *Enron Microclimates* have agreed that the developer also may, at its expense,  
16 apply for a Comprehensive Plan Amendment (CPA) and a modification to the  
17 Planned Unit Development (PUD) prior to transfer of title. If the CPA and PUD  
18 are approved, along with other required permits, the developer would be entitled  
19 to proceed with a series of additional buildings, as noted in the materials that have  
20 been distributed.

21  
22 Mr. Pilliod emphasized that this project is much more intense in terms of the  
23 amount of development on site than the previous approval for the same site,  
24 consequently the PUD must be modified. He noted that the CPA focuses  
25 specifically on removing the designation of the Esplanade Roadway as a roadway  
26 now noted in the Comprehensive Plan. Referring to the Scope of Development,  
27 he mentioned that through negotiations, the City of Beaverton has avoided  
28 inserting numbers, particularly relating to parking, in the details and uses of each  
29 of the building components. He noted that while it has been suggested that  
30 parking would be kept at a minimum, this is an issue that the Planning  
31 Commission would review.

32  
33 Mr. Pilliod observed that while the land use action would be addressed through  
34 the normal application submittal and Public Hearing process, the City Council did  
35 approve the DDA, adding that they had been aware of staff's decision not to  
36 include fixed numbers in order to avoid turning the contract into a land use  
37 decision. Noting that Economic Development Director Janet Young is available  
38 to respond to questions and comments, he noted that she was more involved with  
39 working through the details of the Schedule of Performance.

40  
41 Chairman Voytilla expressed his appreciation to Mr. Pilliod for the overview and  
42 information he provided.

43  
44 In response to a question, Mr. Pilliod advised Commissioner Maks that the City  
45 Council has the right to determine the adequacy of the financial commitment  
46 presented by the developer, to the extent that they feel it is necessary, and in order

1 to make that judgment, may require a feasibility study be submitted. He noted  
2 that the DDA basically enables the City Council to determine what level of detail  
3 they would like to see, for the purposes of satisfying the conditions for the closure  
4 of the transaction. He explained that a similar showing falls within the  
5 jurisdiction of the Planning Commission for its approval of a PUD, expressing his  
6 opinion that the two bodies have two different standards, both of which are  
7 important. He mentioned that in order to make a finding on any land use  
8 decision, the Planning Commission must determine whether substantial evidence  
9 has been presented. In the absence of conflicting evidence, which would place in  
10 doubt material presented by the applicant, it would be more difficult for the  
11 Planning Commission not to find that the criteria had been satisfied.

12  
13 Observing that most of his questions had been answered, Commissioner Johansen  
14 referred to the issue regarding underground parking, specifically the adequacy of  
15 the soil in the area.

16  
17 Mr. Pilliod pointed out that the City of Beaverton had furnished the prospective  
18 developer with information in our possession regarding the soil conditions, noting  
19 that a great deal of information is actually available. He mentioned that the  
20 developer had also retained their own engineers to evaluate that information and  
21 conduct their own studies. He noted that if there is soil that is soft and inadequate  
22 to support a structure, it could be an advantage to remove the soil and utilize the  
23 space for sub-grade parking, assuming there are no problems with the water table,  
24 emphasizing that this needs to be addressed as part of the application process. He  
25 stated that the DDA allows a certain amount of flexibility in terms of adding an  
26 additional floor or level of parking if the developer is unable to place a sufficient  
27 amount of parking below grade, emphasizing that this actually involves design  
28 issues.

29  
30 Mr. Pilliod discussed efforts of the original developer to obtain financing even  
31 throughout the bankruptcy proceeding, adding that while some proposals were  
32 actually submitted to the bankruptcy court as late in the process as the final  
33 hearing, they were not accepted by the court. He pointed out that in spite of all  
34 efforts, with the exception of *Dorn Platz Properties*, no one was willing to step  
35 forward and risk the expense of investigating the site conditions while the  
36 ultimate disposition of the property was still in the bankruptcy process. He  
37 mentioned that although the City of Beaverton and Enron Microclimates chose to  
38 fund a plan in the bankruptcy court without funds offered by *Dorn Platz*  
39 *Properties*, the company had been selected because they had committed  
40 considerable funds to due diligence throughout the bankruptcy, had demonstrated  
41 their experience with mixed-use projects and ability to complete the project, and  
42 had demonstrated their likelihood to obtain financing. He pointed out that the  
43 City of Beaverton had not gotten this project back until May, 2001, adding that  
44 assuming the anticipated closure occurs in September, the developer could  
45 feasibly begin construction as early as October 2001. He noted that Janet Young,

1 Joe Grillo and Linda Adlard had all visited projects that *Dorn Platz Properties*  
2 had completed in California.

3  
4 Commissioner Johansen questioned whether any other publicly funded  
5 improvements are envisioned.

6  
7 Mr. Pilliod noted that the original DDA included a list of public improvements  
8 that were to be completed with City and other public funds, adding that this DDA  
9 had been careful not to identify any such projects that the City of Beaverton  
10 would have to undertake. He advised Chairman Voytilla that this project had  
11 involved some difficult negotiations, and pointed out that there are still risks  
12 involved. He pointed out that no one had wanted to take a chance on this piece of  
13 property that had been in bankruptcy for two years, adding that although it had  
14 been difficult to attract a developer, *Dorn Platz Properties* had managed to  
15 convince staff and City Council that they could achieve what the previous  
16 developer had not. He expressed his opinion that new DDA represents a  
17 substantial improvement over the previous DDA, emphasizing that while there is  
18 always a risk involved, he feels that the City has obtained adequate assurances in  
19 the event of failure of the developer to perform.

20  
21 Mr. Pilliod pointed out that these efforts involve an attempt to create what will  
22 hopefully be one of the most attractive features in the City of Beaverton as well as  
23 something that has been lacking for years -- a vibrant downtown. Observing that  
24 the present site is not attractive, he emphasized that it had been difficult to entice  
25 a developer to pay the required \$2.3 Million.

26  
27 In response to a question, Economic Development Manager Janet Young  
28 explained that this would hopefully create a dramatic catalyst that will potentially  
29 spin off onto surrounding properties. She pointed out that high-density  
30 development would be encouraged along transit areas, adding that every attempt  
31 would be made to attract the best uses for the property.

32  
33 Mr. Grillo discussed the need to put together a Comprehensive Plan Amendment  
34 for the site dealing with Esplanade Street. In addition, minor modification  
35 applications had been submitted involving the present buildings concerning  
36 exterior materials and color scheme changes. He mentioned that the developer is  
37 also submitting site plan approval for the areas immediately adjacent to the  
38 present buildings.

39  
40 Chairman Voytilla noted that the Planning Commission typically visits and  
41 inspects a site prior to review, adding that this one is rather unique because of the  
42 situation, and questioned whether arrangements could be made to gain access for  
43 a site visit.

44  
45 Observing that MCI is providing the on-site security, Mr. Grillo advised  
46 Chairman Voytilla that Janet Young should be contacted to arrange a site visit.

1 Chairman Voytilla mentioned that even after a Staff Report is available there  
2 might be certain limitations regarding how many can visit the site at one time  
3

4 Mr. Grillo informed Chairman Voytilla that while it is not an issue for staff, the  
5 contractor probably prefers a certain procedure or protocol, adding that he could  
6 be notified once there is a better understanding of how many people can visit the  
7 site at one time.  
8

9 Mr. Pilliod expressed his opinion that this should not even be an issue after  
10 September 28, 2001, adding that the developer would most likely prefer to be as  
11 open as possible about construction-related activity.  
12

13 Noting that she has an unrelated announcement, Ms. Young invited the Planning  
14 Commissioners to attend an Open House/Workshop on the Hall/Watson  
15 Streetscape Project, which is planned for the area between the Library and The  
16 Round, on Thursday, August 23, 2001. She pointed out that the Open House is  
17 scheduled from 5:00 p.m. to 6:00 p.m., followed by the Workshop from 6:00 p.m.  
18 to 9:00 p.m., adding that the consultant Fred Kent from the Project for Public  
19 Spaces in New York City would be available to respond to any questions or  
20 comments.  
21

22 Commissioner Barnard questioned whether more than four members of the  
23 Planning Commission could visit the site without creating an issue.  
24

25 Observing that there is always a risk, even in informal occasions, Mr. Pilliod  
26 stated that any discussion involving a quorum could be considered to be  
27 subjective to public meeting requirements. He emphasized that as long as four or  
28 more members attend, they should not engage in discussion or appear to be  
29 deliberating a decision. He suggested that it might be a good idea to visit the site  
30 only in pairs or accompanied by a staff person in order to avoid any controversy.  
31

32 Mr. Grillo stated he hopes that this workshop has been of assistance to the  
33 Planning Commissioners, adding that they should feel free to call with any  
34 questions or concerns.  
35

36 **MISCELLANEOUS BUSINESS:**  
37

38 The meeting adjourned at 8:30 p.m.